

Message Text

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C O N F I D E N T I A L BONN 11917

E.O. 11652: GDS

TAGS: PGOV PFOR GW US FR UK WB UR

SUBJECT: FEDERAL PROSECUTION OF LORENZ KIDNAPPERS IN
BERLIN

REFS: (A) BONN 11748; (B) STATE 166421

1. ALLIES HAVE REACHED AGREEMENT HERE ON NON-PAPER ON LORENZ KIDNAPPING PROSECUTION TO PASS TO FRG IN BONN GROUP. NON-PAPER, PROVIDED PARA 3 BELOW, FOLLOWS US POSITION (REF B) ALREADY PRESENTED TO FRG AND WE WILL THUS GIVE FINAL AGREEMENT UNLESS DEPARTMENT INSTRUCTS OTHERWISE. BRITISH AND FRENCH ARE SEEKING AGREEMENT OF THEIR AUTHORITIES.

2. BECAUSE OF REMAINING DIFFERENCES AMONG THE THREE, PLAN IS FOR THE NON-PAPER TO BE PASSED TO FRG IN BONN GROUP, ACCOMPANIED BY WHATEVER ORAL STATEMENTS THE VARIOUS ALLIES WISH TO MAKE. FOR EXAMPLE, WE EXPECT THAT THE FRENCH WILL SAY THEY WOULD STILL PREFER THAT
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THE TRIAL BE HELD OUTSIDE OF BERLIN. WE PLAN ONLY TO

SAY SOMETHING ON LINES THAT THE NON-PAPER SETS OUT
A SOUND AND REASONABLE RESOLUTION WHICH WE BELIEVE ALL
FOUR CAN ACCEPT AND LIVE WITH.

3. TEXT OF NON-PAPER.

BEGIN TEXT

IF THE FEDERAL GOVERNMENT WERE TO REACH THE CONCLUSION
THAT THE TRIAL SHOULD TAKE PLACE IN BERLIN AND IT SHOULD
PROVE IMPOSSIBLE FOR THE OFFICE OF THE FEDERAL
PROSECUTOR-GENERAL TO DELEGATE THE PROSECUTION TO THE
BERLIN PUBLIC PROSECUTOR (STAATSANWALTSCHAFT), THE
THREE POWERS WOULD ATTACH THE GREATEST IMPORTANCE TO THE
FOLLOWING PRECAUTIONS BEING TAKEN:

A) THE PROCEDURE ADOPTED AT THE TIME OF THE TRIAL
OF HORST MAHLER IN 1972/73 SHOULD BE ADOPTED IN THE
PRESENT CASE. WE RECALL THAT THE FEDERAL PROSECUTOR-
GENERAL WAS NOT INVOLVED THEN IN BERLIN IN THE AFFAIR
EITHER PERSONALLY OR PUBLICLY.

B) IF PERSONNEL FROM THE OFFICE OF THE FEDERAL
PROSECUTOR-GENERAL ARE TO PROSECUTE IN BERLIN, IT WOULD
BE DESIRABLE FOR THE LEGAL OFFICER IN CHARGE OF THE CASE
TO BELONG TO THE BERLIN OFFICE OF THE FEDERAL
PROSECUTOR-GENERAL.

C) TO AVOID ANY APPEARANCE OF A POLITICAL
DEMONSTRATION, THE AFFAIR SHOULD BE HANDLED BY THOSE
CONCERNED WITH PARTICULAR RESERVE AND DISCRETION,
ESPECIALLY IN RELATION TO THE PRESS.

THE THREE POWERS WISH TO BE INFORMED OF THE DECISION
OF THE GERMAN AUTHORITIES BEFORE ANY PUBLIC ANNOUNCEMENT
IS MADE. FOR THEIR PART, THEY MAY FIND IT DESIRABLE
TO ANNOUNCE PUBLICLY IN BERLIN, BEFORE OFFICIAL
CONFIRMATION OF THE APPOINTMENT OF THE LEGAL OFFICERS
CONDUCTING THE TRIAL, THAT THESE OFFICERS WILL, IN
CONFORMITY WITH THE LAWS IN FORCE IN THE WSB, REMAIN
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SUBJECT TO THE AUTHORITY OF THE THREE POWERS AND THAT
THEY WILL APPLY DURING THE TRIAL ONLY THE LAW IN FORCE
IN THE WSB. END TEXT.
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